

REMARKS

Applicant's representative expresses appreciation for the in person interview conducted on March 3. The amendments made by this response and the remarks are consistent with that which was discussed during the interview.

The Final Office Action, mailed December 8, 2008, considered claims 1, 3, 5-7, 9-14, 16, 18 and 20-25. Claims 1, 3, 9-11, 13, 14, 16, 18, 20 and 23-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable by Yuckie (US 6,956,833) in view of Bucher (US 6,928,473). Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable by Yuckie in view of Bucher and further in view of Snyder (US 5,564,109). Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable by Yuckie in view of Bucher and further in view of Harrow (US2003/0009586). Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable by Yuckie in view of Bucher in view of Snyder and further in view of Domenikos (US5,838,916). Claims 21 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable by Yuckie in view of Bucher and further in view of Crosbie (US 7,197,711).

By this response, claims 1, 7, 10-14, 18, 22, 24, and 25 are amended, while claims 3, 16, 20, and 21 are canceled. Claims 1, 5-7, 9-14, 18, and 22-25 remain pending of which claims 1, 14, and 18 are independent.

The present invention allows a user to specify that certain types of data objects be transferred automatically to a remote storage device rather than being stored on the portable device. The current amendments have been made to clarify how this is done. For example, the types of data are specified as comprising a sound data object type, a voice data object type, an image data object type, and a video data object type. A configuration file specifies where each of these types is to be stored. For example, the configuration file may specify that all image data objects are to be sent to a remote storage device, while all other types of data objects are to be retained on the portable device.

The limitations added by this response previously appeared in dependent claims 3 and 21. Specifically, claim 21 included limitations drawn to accessing the configuration file to determine whether the data object was of a type which is to be stored remotely. In rejecting this claim, the examiner acknowledged that the Yuckie and Bucher references failed to teach or suggest this aspect. However, the examiner also cited Crosbie as teaching the use of a configuration file to specify where

files of a particular type are to be stored. Applicant submits, however, that neither Crosbie, nor the remaining references, teach or suggest storing data objects either locally or remotely based on their type as is claimed.

Crosbie is primarily directed to processing documents (such as Word, Excel, or Powerpoint documents) to reduce the amount of data that needs to be transmitted from a computer to a mobile device. Col. 4, lines 36-46. Processing documents involves generating templates (or master slides) and corresponding sets of changes (or masks). The master slide includes common elements for a set of images, while the masks contain only the changes for a particular slide. This aspect of Crosbie is not overly relevant to the present invention. However, the examiner cited column 14, lines 9-16 as teaching the use of a configuration file as claimed. This portion of Crosbie, however, discloses embodiments for synchronizing files from a computer to a handheld device. Although a user may configure the Synchronization Settings, it is only stated that this can be done to disable the "automatic syncing of other programs each time the user uses transfer software to load mobile presentations onto the mobile computing tool." This syncing does not involve the automatic transfer of data objects to a remote storage device *based on the type* of the data object. To the contrary, "[t]he transfer software connects the mobile computing tool to the computer and imports one or more mobile presentations and any other data that is scheduled for transfer into the mobile computer tool's memory." Col. 14, lines 17-23. In other words, all that is transferred is that which was specifically selected for transfer. The Synchronization Settings do not allow a user to specify that a particular type of data object should be stored at a different location than another type of data object.

As a secondary issue, the "Synchronization Settings" of Crosbie are part of the transfer software that resides on the personal computer rather than on the mobile device. Therefore, Crosbie fails to teach or suggest the use of a configuration file *on the data acquisition device* to specify which file types are to be transferred to remote storage as claimed.

The examiner also cited Yukie as teaching "determining a type of the new data object from a plurality of available types." Applicant submits, however, that Yukie does not decide whether to send the data to a remote storage device based on the type of data being acquired. To the contrary, Yukie only specifies that a user can select whether to stream the data to the server or to store the data locally. In fact, Yukie would have no reason to distinguish between data types because in each of the disclosed

embodiments, the user device is only capable of capturing a single type of data (e.g. a music player which captures audio input, a still image camera which captures images, or a video camera which captures video as an image stream). For these reasons, Yukie also fails to teach or suggest: "accessing a configuration file which specifies which type of data objects are to be stored locally and which type of data objects are to be stored remotely, and determining that the configuration file specifies that the new data object is of a particular type that should be stored remotely at a user storage device."

Finally, the remaining references have only been cited for teaching other aspects of the claims and therefore, the combination of the cited art fails to teach or suggest each limitation of the independent claims.

In view of the foregoing, Applicant respectfully submits that all the rejections to the independent claims are now moot and that the independent claims are now allowable over the cited art, such that any of the remaining rejections and assertions made, particularly with respect to all of the dependent claims, do not need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice, and particularly with regard to the dependent claims.¹

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested,

¹ Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting any official notice taken. Furthermore, although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

please consider this a petition therefore and charge any additional fees that may be required to Deposit Account No. 23-3178.

Dated this 9th day of March, 2009.

Respectfully submitted,

/Brian D. Tucker/

RICK D. NYDEGGER
Registration No. 28,651
Brian D. Tucker
Registration No. 61,550
Attorneys for Applicant
Customer No. 47973